



An Overview of Estate Recovery

Overview

Estate Recovery in the Medicaid program was made mandatory to the states by the federal government pursuant to the Omnibus Budget Reconciliation Act of 1993.

Estate Recovery applies to Medicaid members:

- Who at the time of death were any age and an inpatient in a nursing facility, intermediate care facility for people with mental retardation or other mental institution
- Who at the time of death were 55 years of age or older when the person received home and community-based services instead of care in an institution

The Estate Recovery statute has existed in Georgia since 1981. Only estates that are valued less than \$25,000 are excluded from Estate Recovery, in accordance with federal law.

What is an “estate” in estate recovery?

The definition of an estate is “all real and personal property under the probate code.” The estate also includes real property passing by joint tenancy, right of survivorship, life estate, survivorship, trust, annuity, homestead or any other arrangement. The estate additionally includes excess funds from a burial trust or contract, promissory notes, cash and personal property.

When must DCH be notified of a qualified estate?

DCH must be notified:

- Within 30 days of the death of the Medicaid member
- If the personal representative of an estate makes a distribution either in whole or in part of the property of an estate without having reimbursed the Medicaid agency, the personal representative may be held personally liable

Delayed Recovery

Recovery is delayed if:

- The deceased recipient’s spouse is still living
- The deceased recipient has a living child under the age of 21
- The deceased recipient has a living child of any age who is blind or permanently and totally disabled pursuant to Title XIX of the Social Security Act



Hardship Criteria

In determining whether an undue hardship exists, the following criteria will be used:

- The asset to be recovered is an income-producing farm of one or more of the heirs and the annual gross income is limited to \$25,000 or less; or
- The recovery of assets would result in the applicant becoming eligible for governmental public assistance based on need and/or medical assistance programs.

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A lien may be placed on the home, but the recovery will be delayed while the following persons are still living in the home:

- A sibling of the member who was residing in the member's home for at least one year on a continuous basis immediately before the date that the member was institutionalized
- A child of the member who was residing in the member's home for at least two years on a continuous basis before the date that the member was institutionalized and who has established to the satisfaction of the department that he or she provided care that permitted the member to reside at home rather than to become institutionalized

Additional Information

For additional information, contact the Estate Recovery Office, **770-916-0328** or visit our Web site **www.dch.georgia.gov**. Members with questions on Medicaid Estate Recovery may submit them to: GAEstateRecovery@dch.ga.gov, or write to: The Georgia Department of Community Health, Estate Recovery Unit, 6300 Powers Ferry Road, Suite 600-288, Atlanta, Georgia 30339.